

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JEREMIAH RENTAS,

Plaintiff,

v.

VICTORIA KUHN, et al.,

Defendants.

Civil Action No. 23-12958 (KMW) (MJS)

OPINION

WILLIAMS, District Judge:

This matter comes before the Court on the Court's *sua sponte* screening of Plaintiff's complaint (ECF No. 1) and the Court's review of Plaintiff's application to proceed *in forma pauperis*. (ECF No. 1-1.) Having reviewed the application, this Court finds that leave to proceed *in forma pauperis* is warranted in this matter, and Plaintiff's application will be granted. Because Plaintiff will be granted *in forma pauperis* status in this matter, this Court is required to screen his complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and dismiss any claim which is frivolous, malicious, fails to state a claim for relief, or seeks relief from an immune defendant. For the reasons set forth below, Plaintiff's complaint shall be dismissed without prejudice.

I. BACKGROUND

Plaintiff is a convicted state prisoner currently serving a parole violation term in South Woods State Prison. (ECF No. 1 at 2-4.) In his current complaint, he seeks to raise failure to protect claims against a number of corrections officers and supervisory officials. (*Id.*) Plaintiff provides little detail as to the nature of his claims, stating only that on June 12, 2023, an unspecified

officer “allow[ed] another inmate [to] enter [his] cell and hit [him] with a closed fist causing [Plaintiff] to lose a lot of blood from [his] left ear.” (*Id.* at 5.) Plaintiff does not identify the officer in question, nor does he provide any context for the assault to suggest that any particular officer knew that the inmate in question posed an active threat to him at the time.

II. LEGAL STANDARD

Because Plaintiff will be granted *in forma pauperis* status, this Court is required to screen his complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). Pursuant to the statute, this Court must *sua sponte* dismiss any claim that is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *Id.* “The legal standard for dismissing a complaint for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as that for dismissing a complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).” *Schreane v. Seana*, 506 F. App’x 120, 122 (3d Cir. 2012) (citing *Allah v. Seiverling*, 229 F.3d 220, 223 (3d Cir. 2000)).

In deciding a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), a district court is required to accept as true all factual allegations in the complaint and draw all reasonable inferences from those allegations in the light most favorable to the plaintiff, *see Phillips v. Cnty. of Allegheny*, 515 F.3d 224, 228 (3d Cir. 2008), but need not accept as true legal conclusions couched as factual allegations. *Papasan v. Allain*, 478 U.S. 265, 286 (1986). A complaint need not contain “detailed factual allegations” to survive a motion to dismiss, but must contain “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A complaint “that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do,’” and a complaint will not “suffice” if it provides only “‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (quoting *Bell Atlantic v. Twombly*, 550 U.S. 544, 555, 557 (2007)). “To survive a motion to dismiss, a complaint must contain sufficient factual

matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* (quoting *Twombly*, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting *Twombly*, 550 U.S. at 556). A complaint that provides facts “merely consistent with” the defendant’s liability “stops short of the line between possibility and plausibility” and will not survive review under Rule 12(b)(6). *Id.* (quoting *Twombly*, 555 U.S. at 557). While *pro se* pleadings are to be liberally construed in conducting such an analysis, *pro se* litigants must still “allege sufficient facts in their complaints to support a claim.” *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 245 (3d Cir. 2013).

III. DISCUSSION

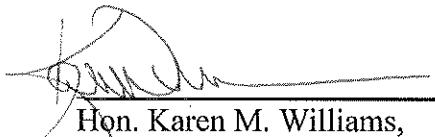
In his complaint, Plaintiff seeks to raise a failure to protect claim against a number of prison officials based on an attack he suffered at the hands of another inmate who was “allow[ed]” to enter his cell by unknown officers. In order to plead a plausible claim for failure to protect, a plaintiff must plead facts indicating that he was “incarcerated under conditions posing a substantial risk of serious harm” and that the officer was “deliberately indifferent” to that risk, resulting in harm to the Plaintiff. *Belt v. Fed. Bureau of Prisons*, 336 F. Supp. 3d 428, 438-39 (D.N.J. 2018); *see also Farmer v. Brennan*, 511 U.S. 825, 833 (1994); *Bistrian v. Levi*, 696 F.3d 352, 367 (3d Cir. 2012). An officer will only be deliberately indifferent where he knew of and disregarded a known risk of serious harm. *Belt*, 336 F.3d at 438.

In his current complaint, Plaintiff pleads no facts suggesting that any of the named Defendants knew of any risk of harm posed to Plaintiff by the inmate who attacked him, nor does Plaintiff plead that the officers were in any way present for or involved in the events which led to the attack. Thus, Plaintiff’s complaint pleads no more than that officers failed to prevent an unexpected assault by another inmate upon Plaintiff. That is insufficient to state a plausible claim

for relief for failure to protect. *Belt*, 336 F. Sup. 3d at 438-39; *see also Bistrian*, 696 F.3d at 367. Plaintiff's complaint shall therefore be dismissed without prejudice in its entirety at this time for failure to state a claim for which relief may be granted.

IV. CONCLUSION

For the reasons expressed above, Plaintiff's application to proceed *in forma pauperis* (ECF No. 1-1) shall be **GRANTED**, Plaintiff's complaint (ECF No. 1) shall be **DISMISSED WITHOUT PREJUDICE** in its entirety for failure to state a claim. Plaintiff is granted leave to file an amended complaint addressing the noted deficiencies within thirty days. An order consistent with this Opinion will be entered.



Hon. Karen M. Williams,
United States District Judge